

REMARKS

Claims 25-45 are pending in the application. Claims 25-45 have been rejected. Favorable reconsideration of the application in view of the following remarks is respectfully requested. Claim 1 has been amended.

Applicants respectfully submit that the finality of the rejection of March 14, 2006 is improper. Applicants request, therefore, that the finality of the rejection should be withdrawn. The Examiner states that Applicants' submission of an IDS under 37 CFR 1.97(c) on June 13, 2005 prompted the new ground of rejection. However, Applicants wish to point out that the IDS was not submitted with a fee. MPEP 609.04(b) states as follows:

If information submitted during the period set forth in 37 CFR 1.97(c) with a statement under 37 CFR 1.97(e) is used in a new ground of rejection on unamended claims, the next Office action will not be made final since in this situation it is clear that the applicant has submitted the information to the Office promptly after it has become known....”

The Examiner's comments together with the cited references have been carefully studied. Favorable reconsideration in view of the following remarks is respectfully requested.

Claim 1 has been amended to clarify that the fusible, porous ink-transporting layer is the uppermost layer in the inkjet recording element and is substantially non-retentive of colorant, allowing for passage of fluid and colorant in the inkjet ink composition to the underlying fusible, porous ink-receptive layer which contains the image. Support for this amendment is clearly to be found on page 4, lines 18-20, and on page 6, lines 4-11.

Relying on 35 U.S.C. §102(b), the Examiner rejected claims 25-45 as being anticipated by Bugner et al. (EP 0983866 A2). Applicants respectfully traverse the Examiner's rejection, and request reconsideration. The Examiner states that Bugner et al. discloses an ink jet printing method comprising the step (B) of loading said printer with an ink jet recording element comprising a support having thereon in order:

“(a) a fusible porous, ink-retaining layer (ink receptive layer), including fusible polymeric particle (melt-fusible) and a polymeric binder (gelatin) ([0017]): (see Abstract); and

(b) a fusible, porous ink-transporting layer comprising fusible, polymeric particles and a film-forming, hydrophobic binder (ink receiving layer split into two or more layers) ([0017]).

This rejection is traversed for the reason that splitting the ink-receiving layer of Bugner et al. into two or more layers, as proposed by the Examiner, will not obtain Applicants' invention. The two fusible layers in Applicants invention includes an ink-transporting layer, which is not intended to contain the printed image, over an ink-receptive image, which is intended to contain the printed image. In point of fact, the ink-transporting layer comprises a film-forming hydrophobic binder, whereas Bugner et al. states, with respect to the ink-receiving layer, that “The binder may be any hydrophilic film forming binder.” It is obviously intended that the fusible layer or, if split, layers of Bugner are not ink-transporting layers, but image-receiving layers.

Applicants therefore respectfully request that the Examiner reconsider and withdraw the rejection of the claims under 35 U.S.C. §102(b) in view of Bugner et al.

Relying on 35 U.S.C. §102(b), the Examiner also rejected claims 25-45 as being anticipated by Williams et al. (WO 00/63024). The Examiner states that Williams et al. disclose an ink jet printing method comprising the step (B) of loading said printer with an ink jet recording element comprising a support having thereon in order:

“(a) a fusible porous, ink-retaining layer (heat sealable layer), including fusible polymeric particle (thermoplastic polymer) and a polymeric binder (gelatin) (page 5, lines 1-15; page: 9, lines 1-30; page 36, lines 1-30); and

(b) a fusible, porous ink-transporting layer (ink-receiving layer) comprising fusible, polymeric particles and a film-forming, hydrophobic binder (page 36, lines 1-30).

Applicants respectfully traverse the Examiner's rejection, and request reconsideration. Applicants wish to call the Examiner's attention to the fact that Williams refers to Layer 3 (page 1, Figure 1 and Figure 3), as an "image receiving layer (IRL)" (page 6, line 30) and not as an "ink-transporting layer" nor to an "ink-receiving layer." Applicants especially wish to call the Examiner's attention to the fact that the IRL of Williams is the uppermost layer of the Elements in which the layer appears, and that the "ink-transporting layer" of Applicants invention' is also the uppermost layer in the Elements of Applicants' invention.

The Image-Receiving Layer (IRL) of Williams is different in both composition and function from the fusible porous "ink-transporting layer" of Applicants' invention. To highlight the distinction, the IRL of Williams is an optional layer and is not required if the Heat Sealing Layer (HSL), Layer 2 (page 1, Figures 1 to 4) retains the colorant. Williams states that "The optional Image Receiving Layer is not necessary when dyes such as non-water color dyes or dyes, that will be retained by the heat sealing layer, are imaged directly onto the heat sealing layer," (page 3, lines 29-31 to page 4, lines, 1-2). The IRL of Williams is required only when the HSL is not capable of retaining the dye. Williams states as follows:

At least one of the coatings of the present invention should be able to retain an image such as an image dye." However, when the HSL is not capable of retaining a dye, the IRL of the invention is required. The IRL retains dyes, such as ink from ink jet printers....(page 36, lines 5-10).

The IRL composition of Williams accordingly must comprise at least one polymer capable of retaining the dyes. Williams states that "The heat sealable element further optionally comprises an Image Receiving Layer which comprises at least one polymer which is capable of receiving and retaining water base colorants..." (page 3, line 22-25). So, for example, the IRL of Williams comprises various color retention aids (page 36, line 18). One such material, for example, are cationic polymers. Williams states: "Moreover, the Image Receiving Layer may contain from about 2 to about 20 weight percent of a cationic polymer..." (page 40, lines 14-16).

A key feature of Williams' inkjet recording element and process is that the color image is located in the fused uppermost layer. In contradistinction to the function and composition of Williams' uppermost Image Receiving Layer, Applicants

uppermost fusible porous ink-transporting layer is specifically required to be non-retentive of dyes. Thus the polymer and binders in the layer are of the same charge type as the dyes, or non-ionic, and have the opposite compositional requirement from Williams. Applicants' invention fixes the colorant, not in the uppermost fused layer, but in a layer underneath the uppermost fused layer. This provides advantages to protecting the image from physical abrasion, and other environmental insults. Williams does not teach this advantage, nor how to achieve it.

In view of the foregoing remarks and amendment, the claims are now believed allowable and such favorable action is courteously solicited.

Should the Examiner consider that additional amendments are necessary to place the application in condition for allowance, the favor is requested of a telephone call to the undersigned counsel for the purpose of discussing such amendments.

Respectfully submitted,



Chris P. Konkol.
Attorney for Applicant(s)
Registration No. 30,721

CPK:clb
Rochester, NY 14650
Telephone: (585) 722-0452
Facsimile: (585) 477-1148

Enclosures: